

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

ENGROSSED

Committee Substitute

for

House Bill 5250

BY DELEGATES KELLY, KUMP, WESTFALL, SHAMBLIN,

HILLENBRAND, AND TONEY

[Originating in the Committee on the Judiciary;

Reported on February 5, 2024]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §46A-9-1, §46A-9-2, §46A-9-3, §46A-9-4, §46A-9-5, and §46A-9-6 all relating
3 to defining terms, establishing required notices, and describing necessary training to
4 combat gift card fraud as well as describing the penalties associated with violating these
5 provisions.

Be it enacted by the Legislature of West Virginia:

ARTICLE 9. COMBATTING GIFT CARD FRAUD.

§46A-9-1. Definitions.

1 As used in this article:

2 (a) "Gift card" means a written promise or electronic payment device that:

3 (1) Is usable at a single merchant or affiliated group of merchants that share the same
4 name or mark;

5 (2) Is issued in a specific amount;

6 (3) May or may not be increased in value or reloaded;

7 (4) Is purchased or loaded on a prepaid basis for the future purchase or delivery of any
8 goods or services; and

9 (5) Is honored upon presentation.

10 (b) "Purchaser" means a consumer who purchases a gift card.

11 (c) "Seller" means any person, firm, partnership, association, or corporation that sells gift
12 cards to purchasers, but does not include any person, firm, partnership, association, or
13 corporation which sells to purchasers a gift card that can only be redeemed at the location of sale
14 or any entity that sells gift cards to purchasers via the internet.

§46A-9-2. Required Notices.

1 (a) The Consumer Protection and Anti-Trust Division by July 1, 2024, shall create and
2 publish a form notice that shall:

3 (1) Caution the purchaser about gift card scams; and

4 (2) Instruct the purchaser on what to do if they suspect they might be a potential victim of
5 such a scam.

6 (b) No seller shall sell a gift card to a purchaser unless the seller displays a form of the
7 notice described in subsection (a).

8 (c) The notice shall be provided as follows:

9 (1) Where a seller has an electronic payment system screen, the notice may be given on
10 such screen to the purchaser before finalizing payment; or

11 (2) Where a seller does not have an electronic payment screen, or does not wish to provide
12 notice on its electronic payment system screen, the notice shall be posted in a conspicuous
13 manner in the location where the sale occurs and in a font clear and large enough to enable it to
14 be read easily by the purchaser.

15 (3) Example of appropriate notice: Protect yourself from prepaid card scams; including
16 requests related to lotteries, taxes, employment status or utility payments. Do not provide any
17 prepaid card information to someone you do not know, including pin number or card number. If
18 you feel that you are a victim of fraud, contact local law enforcement.

§46A-9-3. Employee Training.

1 (a) The Director of the Consumer Protection and Anti-Trust Division, in consultation with
2 the Attorney General shall establish and publish guidelines concerning the detection and
3 prevention of gift card fraud by July 1, 2024.

4 (b) The guidelines shall include, but not be limited to:

5 (1) Information raising public awareness of the prevalence of gift card fraud;

6 (2) Information concerning common gift card fraud schemes; and

7 (3) Best practices for sellers to prevent gift card fraud.

8 (c) Samples of best practices can include, but are not limited to:

9 (1) Prominently posting and maintaining signs near cash registers and gift card stands to
10 warn customers about gift card fraud.

11 (2) Encouraging payments for gift cards via credit card, which can be more easily tracked
12 and cancelled in the event a fraud is subsequently discovered.

13 (3) Limiting purchases and activation of gift cards to cash registers staffed by an employee,
14 instead of allowing purchases and activation at self-checkout stands.

15 (d) Every seller shall train employees on how to identify and respond to gift card fraud. A
16 seller shall conduct the training in accordance with guidelines concerning the detection and
17 prevention of gift card fraud provided by the Director of the Consumer Protection and Anti-Trust
18 Division.

§46A-9-4. Additional Requirements.

1 In addition to the other requirements established by this article, no seller shall allow a
2 purchaser to purchase a gift card through a system whereby the purchaser can scan goods
3 themselves and pay without a cashier or other employee of the seller first approving the
4 transaction.

§46A-9-5. Penalties.

1 Any seller that violates the provision of this article shall be subject to a civil penalty of up
2 to \$250: *Provided*, That nothing in this Article shall be construed to limit the prosecution of an
3 individual under the provisions of §61-15-1 *et seq.* of this code.

§46A-9-6. Effective Date.

1 This article shall take effect on July 1, 2024.